IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Bail Appl..No. 3227 of 2007(M)

AGAINST THE JUDGEMENT/ORDER IN BA.2177/2007
AGAINST THE JUDGEMENT/ORDER IN BA.4198/2006
CRIME NO.137/2006 OF HILL PALACE POLICE STATION

PETITIONER/ACCUSED NO.2

MOHAMMED SALI, S/O.ABDULLA MOULAVI,
AGED 19 YEARS, SALAM MANZIL, VADUTHALA JETTY
BHAGOM, AROOKUTTY, CHERTHALA.

BY ADV. SRI.MATHAI VARKEY MUTHIRENTHY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE CIRCLE INSPECTOR OF POLICE, HILL PALACE
POLICE STATION, TRIPUNITHURA, THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY DGP SRI.P.G.THAMBY

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J

B.A.NO. 3227/2007

Dated this the 1st day of June, 2007

ORDER

The second accused in Crime No.137/2006 of Hill Palace Police Station for offences punishable under Sections 143, 147, 148, 449, 324, 326, 307, 302, 427, 201 and 120B read with Section 149 IPC and Sections 3 and 4 of the Explosive Substance Act 1908 and Section 27 of the Arms Act 1959 seeks enlargement on bail. The occurrence took place on 6.3.2006. The petitioner was arrested on 29.3.2006. His earlier applications for bail were rejected.

2. Sri.P.G.Thampi, Director General of Prosecution opposed the application submitting inter alia this is a ruthless murder and that if the petitioner is released on bail, he will make himself scarce and flee from justice as has been done by the first accused and that proceedings are pending before the Government for the appointment of a competent criminal lawyer as is a Special Public Prosecutor.

3. The last 2 or 3 bail applications of the petitioner were dismissed in the hope that a Special Public Prosecutor would be appointed at the earliest and trial of the case would be over in the shortest possible time. But that has remained to be myth. Right to speedy trial is a fundamental right guaranteed to persons like the petitioner. There is no dispute that out of the 11 accused persons involved in the case, accused Nos.4 and 6 have not been arrested and the first accused is absconding and accused Nos. 3,5, 7, 8, 10 and 11 have been granted bail and accused No.9 has not applied for bail. Even though accused Nos.2,3,5,7,8,9,10 and 11 are facing trial before the IInd additional Sessions Court, Ernakulam in SC 436/2006, the trial could not be proceeded with on account of the delay in the appointment of the Special Public Prosecutor. Such a state of affairs cannot go on indefinitely since the petitioner has been languishing in prison from 29.3.2006. Under these circumstances, I am constrained to grant bail to the petitioner but on stringent conditions. Accordingly, the petitioner is directed to be released on bail on his executing a bond for Rs.25,000/= (Rupees Twenty five thousand only) with two solvent sureties

(each of whom shall produce solvency certificates) each for the like amount to the satisfaction of the IInd Additional Sessions Court, Ernakulam and subject to the following conditions:

1) Petitioner shall confine himself to the limits of Alappuzha and Ernakulam Districts.

2) The petitioner shall report before the Sheristadar of the Sessions Court, Ernakulam between 10 a.m. and 11 a.m. on all Wednesdays.

3) The petitioner shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence for the prosecution.

4) The petitioner shall not commit any offence while on bail.

If the petitioner commits breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

Bail Application is allowed as above.

V.RAMKUMAR, JUDGE

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